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Transcription Barbara Roberts

Introduction: A video interview with Barbara Roberts, Human Rights Officer, about the duty to accommodate.

What is a disability?

Disability offices derive their mandate from provincial human rights legislation and they use often the definitions that are included in those codes as well. Those codes include physical disability, which would include any kind of physical impairment, any kind of medical condition, sensory impairments such as vision loss and hearing loss as well as mental disabilities, and that would include psychiatric disabilities, and that would include psychiatric disability, emotional disability, and learning disabilities are often enumerated in the provincial codes as well. Those codes also identify disability as coming from any cause and any degree of impairment and including but not limited to all of the above. So it's a very broad definition if you go strictly according to the provincial human rights codes. The World Health Organization, on the other hand, identifies disability as an interaction between a person's condition or impairment and the task or environmental requirement, like the curriculum. So, there may not be a disability if that interaction doesn't result in any difficulty participating. So what we're really looking at is when the person's condition affects their participation in an academic task or requirement. So the definition isn't like this is one condition and that condition is and isn't a disability; it's more about the student's participation and how that's affected by the requirement and their disability.

What are the responsibilities of the instructor, the disability office, and the student?

Well, the duty to accommodate starts with the person who sets the task. So, when an instructor designs a course and they determine the course content and they look at what delivery methods they're going to use, what kind of assessment methods will be used, what activities will be required, they have the opportunity right there to determine how accessible that curriculum is going to be. So, they can design it to be inclusive of a wide variety of learners and we often recommend uses of universal instructional design strategies or universal design for learning as it's sometimes called to make those activities as accessible to a range of learners as possible. So at that point, the instructor's responsibility is to determine that content and those delivery and assessment methods and to design them to be as accessible as possible. The responsibility of the disability office is to collaborate with the instructor when possible—often you have to make generic recommendations because students have many, many instructors and different kinds of courses. But the disability office vets the medical documentation, they work with the student to bridge that gap between what the course requirements are and what the student's disability requirements are. So the role of the student in all of that is to present that need, present that documentation, and work with the disability office and sometimes the instructor directly to reconcile that gap between the course requirements and the student's ability and disability needs.

Do I, as an instructor, need to make whatever accommodation is asked?

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Not necessarily. The accommodation process is a mutual process, so both the student and the instructor need to collaborate if it looks like there is a conflict between what the student needs and what the instructor is trying to teach. So, in that mutual process, both parties have to look at both the disability needs and the requirements of the task. So the appropriate accommodation may not be exactly what the student wants or thinks they need. It may not be exactly what their documentation recommends because there's the role of the task requirements, too, which contributes to the determination of the appropriate accommodation.

Where is the line of undue hardship? When does it become too much to ask of the instructor?

There are basically three determinations of undue hardship: the cost, the availability of outside funding to support the cost, and health and safety considerations. So when we talk about cost, we're talking about the cost of accommodation that would potentially exceed the capacity of that department or that program and would go to the level of the university's operating grant. So the duty to accommodate is an institutional responsibility, and the duty to cover that cost is taken to the institutional level. It would have to compromise the academic mission of the institution before an undue hardship would be established for financial cost reasons. Outside sources of funding refer to the opportunity to secure a grant or look for a partnership with industry, or to seek a donation—to look further than the institution's resources to support accommodations that may be required. That often happens where you're looking at renovating a building, for instance, or large-scale accommodations. The health and safety consideration involves several tests of what is the real risk but you're looking at four different criteria for determining health and safety risks and those all have to be considered before undue hardship can be determined. One thing that people often wonder about is the limits of a collective agreement and workload issues for faculty in producing accommodations at the level of, for instance, a new midterm or a makeup test or exam. A person would really hit a really high price and a pretty heavy time commitment before they would reach an undue hardship standard. It's expected that there will be some hardship involved in accommodating students. It's only undue hardship that really is the barrier and that's very hard to demonstrate in an environment as flexible as post-secondary education.

How is all this differential treatment for students with disabilities fair for students without disabilities?

The whole notion of accommodation is based in the fact that we're all different and we deserve respectful treatment for our differences and in the context of our differences. So the point of accommodation is to provide an equalized learning opportunity, not to ensure success, which some people think it is, but rather to level the playing field which is, among disability service providers, may be an overused metaphor but it's really very appropriate because we're really trying to provide an equal opportunity in the context of differences. So we don't want to block learning opportunities for students with disabilities because of something that might be immaterial to the task that they're doing, or the learning that they're working towards. So, it's our responsibility in providing a respectful and equalized learning opportunity, to do things differently for some people. Not everybody is the same—we don't all get to the same place in the same way.